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| 10/667,123 | 09/17/2003 | Shantanu Sardesai | MS1-1613US | 7155 |
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| LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201 | | | EXAMINER | |
| | | | VO, TED T | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,123

Applicant(s)

SARDESAI ET AL.

Examiner

TED T. VO

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,11-16,19-21,25-29,42-46,50-55,59 and 61-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,11-16,19-21,25-29,42-46,50-55,59 and 61-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the communication filed on 04/21/2008.

Claims 1, 3-7, 11-16, 19-21, 25-29, 42-46, 50-55, 59, 61-63 are pending in the application.

Response to Arguments

2. Applicants' arguments and amendment in the remarks on 07/24/2007 have been considered but are moot in view of new ground of rejection presenting in this office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel Pradilla (hereinafter: Pradilla), "Operating System Installation", 1996, ICTP - The Abdus Salam International Centre for Theoretical Physics, Trieste, Italy, in view of Computing.net, "Installing a New Operating System", 2002, <http://www.computing.net/answers/windows-mc/installing-a-new-operating-system/17954.html>.

As per claims 1: Pradilla discloses a method comprising

installing a pre-installation environment on a target computer that is desired to be imaged with a new operating system, the pre-installation environment comprising a subset of an operating system, wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in a same disk partition as an old operating system;

See p.1, "Requirement", all four bold bullets and the partitions in the hard disk: *pre-installation environment*. Referring "Windows 95 system", "the Windows 95 upgrade" and "the Windows 95 Complete system" or "Linux Slackware Distribution": *a subset of an operating system*).

re-booting the target computer wherein rebooting the target computer activates the pre-installation environment on the target computer, deleting an old operating system from within the pre-installation environment;

(see, start at p.2, "Windows 95 Installation" using Format DOS partition. It should be noted when a partition in a hard drive is formatted, it erases all existing operating system (i.e. old) stored in this partition).

installing the new operating system from within the pre-installation environment, wherein the new operating system is deployed in the same disk partition as the old operating system, whereby non-operating system data on the disk is preserved; and

(see, start at p.2, “Windows 95 Installation” using Format DOS partition. It should be noted when a partition in a hard drive is formatted, it erases all original operating system stored in this partition; see “Hard Disk Partition”, only operating data one of the partitions is effected by the new operating system deployment, other data not in the operating kernel or other partitions is preserved).

re-booting the target computer in the new operating system; said acts being effective to in-place image the target computer with the new operating system.

(p. 2, in Windows 95 Installation, see bold bullet, “Test Windows”, reboot the machine).

Pradilla does not address “old operating system”; thus not address deleting old operating system.

However, the suggestion is that format DOS partition that formats an environment (a partition) before loading the new operating system.

Computing.net, an analogous art, shows before installing a new operating system over an existing operating system, a reboot computer is required with a bootdisk, but it causes losing existing operating system because of formatting. Computer.net shows non-related data should be saved in a backup before installation and restore after the installation’s completion (See Name jFrOg, posted date January 4, 2002),

Therefore, it is obvious to an ordinary in the art to combine the two discussions of the same type of installation because when formatting a partition of a boot sector in the hard drive, all existing would be automatic deleted and for data that is not be part of the operating systems could be saved on other partition, or restored after the completion.

As per claim 3: *The method of claim 1 further comprising capturing data and state for migration to the new operating system and migrating said captured data and state to the new operating system* (See Pradilla: refer to run the windows 95 Installation program in p. 3).

As per claim 4: *The method of claim 1 further comprising capturing machine data for migration to the new operating system and migrating said captured machine data to the new operating system* (See Pradilla, in p. 3: refer to run the windows 95 Installation program. It shows using commands to perform migration from Windows 95 disk to a partition boot sector).

As per claim 5: *The method of claim 1 further comprising capturing user data for migration to the new operating system and migrating said captured user data to the new operating system* (Pradilla: refer to run the windows 95 Installation program in p. 3).

As per claim 6: *The method of claim 1 further comprising capturing user state for migration to the new operating system and migrating said captured user state to the new operating system* (Pradilla: refer to run the windows 95 Installation program in p. 3).

As per claim 7: *The method of claim 1 further comprising capturing client data for migration to the new operating system and migrating said captured client data to the new operating system* (Pradilla: refer to run the windows 95 Installation program in p. 3).

5. Claims 11-16, 19-21, and 59, 61-63 are rejected under 35 U.S.C. 103(b) as being unpatentable over Daniel Pradilla (hereinafter: Pradilla), "Operating System Installation", 1996, ICTP - The Abdus Salam International Centre for Theoretical Physics, Trieste, Italy, in view of Computing.net, "Installing a New Operating System", 2002, <http://www.computing.net/answers/windows-me/installing-a-new-operating-system/17954.html>, and further in view of Sun Microsystems (Hereafter Sun): "JumpStart™ Mechanics: Using JumpStart Application for Hands-Free Installation of Unbundled Software", (hereinafter Part1), "JumpStart™ Mechanics: Using JumpStart Application for Hands-Free Installation of Unbundled Software – Part 2" (hereinafter Part2), and "Upgrading to the Solaris™ 8 Operating Environment" (hereinafter Part3).

As per Claim 11: *A method for remotely imaging multiple target computers with a new operating system comprising:*

imaging multiple target computers with a new operating system using a multi-phase image deployment process, said multi-phase deployment process comprising at least:

a preparation phase in which various data is captured for migration to the new operating system, wherein the preparation phase comprises installing a pre-installation environment from which in place installation can take place, the pre-installation environment comprising a subset of an operating system, wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in the same disk partition as the old operating system (See rationale addressed in claim 1, corresponding to the step installing a pre-installation environment);

a wipe and load phase in which an old operating system is deleted and the new operating system is installed in place, wherein the new operating system is deployed in the same disk partition as the old operating system, whereby non-operating system data on the disk is preserved (See rationale addressed in claim 1, corresponding to the step rebooting the target computer installing a pre-installation environment, and installing the new operating system); *and a restoration phase in which captured data is migrated to the new operating system* (See rationale addressed in claim 1, corresponding to the step rebooting the target computer in the new operating system and said acts being effective);

Neither Pradilla nor Computing.net discloses remotely image, but merely discloses a pre-installation environment being stored in an external physical storage that is not in the partition drives, and deploying the data for installation.

However, remotely installation is only utilizing the Internet technology where installation data can be deploying remotely.

Sun discloses remotely imaging (for example, see Sun part 3: "Deploying a Solaris Install Server", p. 3) and preparing image deployment remotely to target computers in a network.

Therefore, it is obvious to utilize Internet as known in the art seen by Sun for storing installation data remotely from a target computer connected in Internet, and thus when installing this data, a new operating system, it would be deployed to a target computer by conforming to the availability of Internet, but all the installation steps do the same like using an external physical storage connected to that target computer like disclosed by Pradilla or Computing.net.

As per claim12: as seen in SUN, it further discloses, *wherein the preparation phase can capture data associated with one or more of machine state, client state, user state and/or user data* (The JumpStart provides configuration; does identifications, for example, Part3, p. 4, i.e., identifying an install server; performs profiling, installation option, p.11).

As per claim13: as seen in SUN, it further discloses, *wherein machine state data can comprise one or more of computer name, domain, and network settings* (i.e. Sun shows identifying install server).

As per claim14: as seen in SUN, it further discloses, *wherein client state data can comprise Site association or code, client GUID, and an associated distribution point* (i.e. Sun's servers).

As per claim15: as seen in SUN, it further discloses, *wherein user state data can comprise a user profile* (see installation profile in Part 1, p. 8).

As per claim16: as seen in SUN, it further discloses, *wherein user data can comprise folders and files desired for migration and network share settings* (see file system, in part 1, p. 9, "configuration information").

As per claim 19: as seen in SUN, it further discloses, *wherein the wipe and load phase comprises enabling a target computer to connect with at least one of a number of destination points from which an image file containing the new operating system image is obtained* (Sun provides the user to identify install server where the sever contains new operating system; e.g. see Part 1, p. 2, Table 1; or see Part 3, p. 11).

As per claim 20: as seen in SUN, it further discloses, *wherein the multi-phase image deployment process is configured to generate status reports during each of the phases, said*

status reports being transmittable to a system administrator to facilitate management of the image deployment process (see Part3, p.14 syslog).

As per claim 21: as seen in SUN, it further discloses, *wherein the multi-phase image deployment process is configured to generate status reports during each of the phases, said status reports being transmittable to a system administrator to facilitate management of the image deployment process, wherein status reports are generated by an old client associated with the old operating system, and a new client associated with the new operating system* (see Part3, p.14 syslog).

As per claims 59, 61-63: See rationale addressed in the rejection of claims 11 and 19-21 respectively.

6. Claims 25-29, 42-46, 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel Pradilla (hereinafter: Pradilla), "Operating System Installation", 1996, ICTP - The Abdus Salam International Centre for Theoretical Physics, Trieste, Italy, in view of Computing.net, "Installing a New Operating System", 2002, <http://www.computing.net/answers/windows-me/installing-a-new-operating-system/17954.html>, and further in view of Pawlak, "Software Update Service to Ease Patch Distribution", DirectiononMicrosoft.com.

As per claim 25: Regarding limitation,

A method for in-place imaging of a target computer with a new operating system comprising:

installing a pre-installation environment on the target computer that is desired to be imaged with a new operating system, the pre-installation environment comprising a subset of an operating system, wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in a same disk partition as an old operating system; re-booting the target computer, wherein rebooting the target computer activates the pre-installation environment on the target computer;

deleting an old operating system from within the pre-installation environment;

installing the new operating system from within the pre-installation environment, wherein the new operating system is deployed in the same disk partition as the old operating system, whereby non-operating system data on the disk is preserved;

re-booting the target computer in the new operating system;

See the rationale address in Claim 1 above.

Neither Pradilla nor Computing.net discloses *notifying a target computer user that a new operating system image is desired to be deployed on the target computer and providing the user with an option to postpone image deployment on the target computer.*

Pawlak, in an analogous art, using a server side process to implement a scheduler on a target computer for *notifying a target computer user that a new operating system image is desired to be deployed on the target computer* (e.g. see p.3-4, "Automatic Update Client": it teaches SUS client is notified to get applicable packages); *and providing the user with an option to postpone image deployment on the target computer* (See p. 3, last paragraph. See A1-3, the options, and descriptions within check boxes. Also see A1-A2).

Therefore, it would be obvious to an ordinary in the art to include an option as in the manner of Pawlak into the setup installer of Pradilla or Computing.net to allow a client or a user of a target computer having an option; thus, it would be good for the user with a decision or choices.

As per claim 26: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to disallow image deployment on the target computer* (See A1-A2, for example unchecked).

As per claim 27: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to immediately begin an image deployment process on the target computer* (See A1-A2, for example approve, or the act of downloading by a user in A1).

As per claim 28: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to disallow image deployment process on the target computer, and an option to immediately begin an image deployment process on the target computer* (See A1-A3).

As per claim 29: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25, wherein the act of providing comprises allowing the user to specify a postponement duration* (See A2-A3, 'set options').

As per claim 42: Regarding the limitation recited in the claim 42, Pradilla in view of Computing.net discloses the claimed recitation as in the manner addressed in the claim 1 (see the rationale addressed in the rejection of claim 25).

However, neither Pradilla nor Computing.net discloses *notifying a target computer user that a new operating system image is desired to be deployed on the target computer and providing the user with an option to postpone image deployment on the target computer.*

Pawlak, in an analogous art, using a server side process to implement a scheduler on a target computer for *notifying a target computer user that a new operating system image is desired to be deployed on the target computer* (e.g. see p.3-4, "Automatic Update Client": it teaches SUS client is notified to get applicable packages); *and providing the user with an option to postpone image deployment on the target computer* (See p. 3, last paragraph. See A1-3, the options, and descriptions within check boxes. Also see A1-A2).

Therefore, it would be obvious to an ordinary in the art to include an option as in the manner of Pawlak into the setup installer of Pradilla or Computing.net to allow a client or a user of a target computer having an option; thus, it would be good for the user with a decision or choices.

As per claims 43-46: See rationale addressed in the rejection of claims 26-29 respectively.

As per claim 50: See rationale addressed in the rejection of claims 42.

As per claims 51-55: See rationale addressed in the rejection of claims 3-7 respectively.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV
July 15, 2008

/Ted T. Vo/
Primary Examiner, Art Unit 2191